

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 31524 of 2007(C)

PETITIONER:

**R.SADANANDAN,
MARUTHI TOURIST HOME,
WILLINGDON ISLAND,
KOCHI-682003.**

**BY ADV. SRI.K.A.SHAJI MATHEW
SMT.O.K.SANTHA**

RESPONDENTS:

**1. THE TAHSILDAR,
KOCHI.**

**2. THE VILLAGE OFFICER,
THOPPUMPADY.**

**3. STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.
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W.P.(C) NO. 31524 OF 2007 C
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Dated this the 25th day of October, 2007

J U D G M E N T

The challenge in this writ petition is against Ext.P5, an order of assessment issued by the 1st respondent under the Kerala Building Tax Act. According to the 1st respondent, plinth area of the building is 2019.30 sq.mts.

2. Petitioner has filed this writ petition challenging the said order of assessment contending that the Act itself is inapplicable in as much as the substantial portion of the building in question was completed much prior to 1.4.73, when only the Act itself was introduced. For this purpose, petitioner relies on Exts. P1 and P2 plans duly certified by the Cochin Port Trust and P3 by the Corporation. It is relying on these plans that it is contended that the Act is inapplicable to the portion that was completed prior to 1.4.73. It is also submitted that 1st respondent has entirely relied on Ext.P8, the property tax assessment list maintained by the Corporation of Cochin, in which

it has been erroneously recorded that the plinth area of the building during 72-77 was only 105 M². Counsel would point out that they have already applied to the Corporation by Ext.P11 seeking correction of the entry in Ext.P8 and that on the whole, it is submitted that the very assessment was without jurisdiction and hence the writ petition is maintainable.

3. In view of the factual issues that are involved in this case, particularly the evaluation of Exts. P1 to P3 plans that are produced by the petitioner, I think the appropriate course open for the petitioner is to apply for rectification before the 1st respondent himself. If such an application is made producing Exts. P1 to P3 and other documents including those which are now relied on by the petitioner, it will be possible for the 1st respondent to appreciate these documents and pass appropriate orders thereon. It would also be permissible for the petitioner to pursue Ext.P11 and obtain a corrected order from the Corporation itself, so that, that could also be made use of in the process for rectification. Petitioner shall file an application for rectification within two weeks from today, in which event, the 1st respondent

will consider the same and pass orders thereon, as expeditiously as possible, at any rate within four weeks thereafter. Further proceedings pursuant to Exts. P5 to P7 will be kept in abeyance as directed above, for a period of two months from today, on the petitioner remitting the first instalment of Rs.1,05,750/-, mentioned in Ext.P7, within 2 weeks from today.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp